

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. 00-134**

**MANDATORY MINIMUM PENALTY  
IN THE MATTER OF  
NEC ELECTRONIC INC.  
501 ELLIS STREET, MOUNTAIN VIEW, SANTA CLARA COUNTY**

This complaint assessing Mandatory Minimum Penalty (MMP) pursuant to Water Code section 13385 (h) is issued to NEC Electronics Inc. (hereafter Discharger) based on a finding of two violations of Order No. 99-051, NPDES No. CAG912003, general waste discharge requirements for discharge or reuse of extracted and treated groundwater resulting from the cleanup of groundwater polluted by volatile organic compounds (VOC General NPDES Permit).

The Executive Officer finds the following:

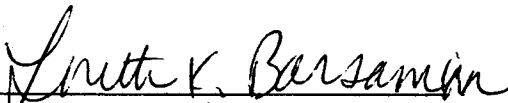
1. On July 21, 1999, the Regional Water Quality Control Board, (Regional Board) adopted the VOC General NPDES Permit. The discharger applied for and received a letter dated September 1, 1999, authorizing the discharge of treated groundwater under this General Permit.
2. The VOC General NPDES Permit prohibits the discharge of effluent (at a point after full treatment but before it joins or is diluted by any other waste stream, body of water, or substance) containing cis-1,2-dichloroethene (cis-1,2-DCE) and Trichloroethene (TCE) concentrations exceeding 5.0 micrograms per liter (ug/l) for each constituent.
3. According to the December 6, 2000, report submitted by the Discharger, a sample of the effluent from the treatment facility collected on November 22, 2000, contained cis-1,2-DCE at a concentration of 20 ug/l and TCE at a concentration of 170.0 ug/l, which exceeded the 5.0 ug/l instantaneous maximum limits established in the permit by 300 percent, and 3,300 percent, respectively
4. Recent changes to Water Code Section 13385(h)(1) became effective January 1, 2000, and require the Regional Board to assess an MMP of \$3,000 for serious NPDES violations. A serious violation includes discharge of effluent containing any Group II pollutant in a concentration that exceeds the established maximum limits by 20 percent or more. Cis-1,2 DCE and TCE are considered Group II pollutants.
5. The Discharger committed two serious violations during the six-month period beginning May 22, 2000, and ending on November 22, 2000. The total amount of the MMP for these two serious violations is \$6,000. These are the Discharger's first two permit violations in a six-month period, therefore the Board is assessing an MMP of \$6,000 for

the cis-1,2 DCE and TCE serious violations. However, in lieu of the first \$3,000 of the total \$6,000 MMP, the Discharger can spend \$3,000 on a supplemental environmental project (SEP) acceptable to the Executive Officer.

6. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), in accordance with Section 15321(a)(2), Title 14, California Code of Regulations.

**NEC ELECTRONIC INC. IS HEREBY GIVEN NOTICE THAT:**

1. The Executive Officer of the Regional Board proposes that the Discharger be assessed an MMP in the amount of \$6,000.00.
2. The Executive Officer of the Regional Board plans to bring this matter to the Regional Board at its April 18, 2001, meeting unless the Discharger agrees to waive the hearing and you agree to one of the two payment options outlined in paragraph three below. If a hearing is held, the Regional Board will consider whether to affirm, reject, or modify the proposed MMP, or whether to refer the matter to the Attorney General for recovery of civil liability and mandatory penalty.
3. The Discharger may waive the right to a hearing. If the Discharger wishes to waive the hearing, the Discharger agrees to one of the two payment options outlined below.
  - a. The Discharger agrees to submit a check to the Regional Board for \$3,000, made payable to the State Water Resources Control Board, and the Discharger agrees to spend \$3,000 on an SEP acceptable to the Executive Officer. The proposal for the SEP and the check for \$3,000 must be accompanied by the attached waiver form number 1 marked and signed by a duly authorized person. These materials shall be sent to the Regional Board's office at the letterhead address, by March 23, 2001.
  - b. The Discharger agrees to submit a check to the Regional Board for \$6,000, made payable to the State Water Resources Control Board. The attached waiver form number 2 marked and signed by a duly authorized person must accompany this check. These materials shall be sent to the Regional Board's office at the letterhead address, by March 23, 2001.

  
Loretta K. Barsamian  
Executive Officer

2.23.01  
Date

## WAIVER FORM NUMBER 1

☐ By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 00-134 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the mandatory penalty proposed. I further agree to submit a check to the Regional Board for \$3,000 and I agree to spend \$3,000 on an SEP acceptable to the Executive Officer. The check together with a proposal shall be sent to the Regional Board's office at the letterhead address, by March 23, 2001.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title/Organization

## WAIVER FORM NUMBER 2

☐ By checking the box I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in Complaint No. 00-134 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the mandatory penalty proposed. I further agree to submit a check to the Regional Board for \$6,000, by March 23, 2001.

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title/Organization



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board

## San Francisco Bay Region

Internet Address: <http://www.swrcb.ca.gov>  
1515 Clay Street, Suite 1400, Oakland, California 94612  
Phone (510) 622-2300 ~ FAX (510) 622-2460



**Gray Davis**  
Governor

Date: **FEB 26 2001**

File No: 2189.8162 & 1210.48 (FA)

CERTIFIED MAIL NO. 70993220000146713037  
RETURN RECEIPT REQUESTED

NEC Electronics Inc.  
Attn: Mr. Michael Kierig, Risk Manager  
P.O. Box 58062, 2880 Scott Blvd.  
Santa Clara, CA 95052-8062

Subject: ASSESSMENT OF A \$6,000 PENALTY FOR TWO SERIOUS VIOLATIONS, MMP COMPLAINT NO. 00-134, NEC ELECTRONIC INC. GROUNDWATER TREATMENT FACILITY, 501 ELLIS STREET, MOUNTAIN VIEW, SANTA CLARA COUNTY

Dear Mr. Kierig:

Regional Board staff have reviewed your notification of violation report dated December 6, 2000, and monitoring report dated January 25, 2001. NEC Electronics Inc. has violated Order No. 99-051, NPDES No. CAG912003, general waste discharge requirements for discharge or reuse of extracted and treated groundwater resulting from the cleanup of groundwater polluted by volatile organic compounds (VOC General NPDES Permit). This letter serves as a cover letter to Complaint No. 00-134. The complaint proposes administrative civil liability of \$6,000. Your company has two options: contesting the matter or waiving the right to a hearing. By waiving your right to a hearing, you agree to pay the liability. In each case, your response is due by March 23, 2001.

Discharge of treated effluent from this facility is regulated under the VOC General NPDES Permit. A sample of the effluent from the treatment facility collected on November 22, 2000, contained cis-1,2-dichloroethene (cis-1,2-DCE) at a concentration of 20 micrograms per liter (ug/l), and Trichloroethene (TCE) at a concentration of 170.0 ug/l, which exceeded the 5.0 ug/l instantaneous maximum limits established in the permit by 300 percent and 3,300 percent, respectively. This sample also contained Freon 113 at a concentration of 5.3 ug/l, which exceeded the 5.0 ug/l instantaneous maximum limits established in the permit by 6 percent. Your company reported no other effluent exceedences occurring during the six months period before November 22, 2000.

Recent changes to Water Code Section 13385(h)(1) became effective January 1, 2000, and require the Regional Board to assess a mandatory minimum penalty (MMP) of \$3,000 for serious NPDES violations. A serious violation includes discharge of effluent containing any Group II pollutant in a concentration that exceeds the established maximum limits by 20 percent or more. Cis-1,2 DCE, TCE, and Freon 113 are considered Group II pollutants.

These are NEC's first two permit violations in a six-month period, therefore the Board is assessing an MMP of \$6,000 for the cis-1,2 DCE and TCE serious violations. However, in lieu of the first \$3,000 of

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the total \$6,000 MMP, your company can spend \$3,000 on a supplemental environmental project (SEP) acceptable to the Executive Officer. Attached, please find a partial list of organizations interested in SEP. No penalty is assessed for the Freon 113 non-serious violation at this time.

Enclosed please find MMP Complaint No. 00-134 assessing a penalty of \$6,000. I plan to bring this matter to the Regional Board at its April 18, 2001, meeting. Your company has two options:

- 1) You can appear before the Regional Board at the meeting to contest the matter. Written comments are due by March 23, 2001. At the meeting the Regional Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the case to the Attorney General to have a Superior Court consider imposition of a penalty.
- 2) You can agree to waive your right to a hearing. By waiving your right to a hearing, you agree to one of the two payment options outlined below.
  - a. You agree to submit a check to the Regional Board for \$3,000, made payable to the State Water Resources Control Board, and you agree to spend \$3,000 on an SEP acceptable to the Executive Officer. The proposal for the SEP and the check for \$3,000 must be accompanied by the attached waiver form number 1 marked and signed by a duly authorized person. These materials shall be sent to the Regional Board's office at the letterhead address, by March 23, 2001, or
  - b. You agree to submit a check to the Regional Board for \$6,000, made payable to the State Water Resources Control Board. The attached waiver form number 2 marked and signed by a duly authorized person must accompany this check. These materials shall be sent to the Regional Board's office at the letterhead address, by March 23, 2001.

If you have any questions, please contact Farhad Azimzadeh of my staff at (510) 622-2310 or by e-mail [fa@rb2.swrcb.ca.gov](mailto:fa@rb2.swrcb.ca.gov).

Sincerely,

  
Loretta K. Barsamian  
Executive Officer

Attachments:

- 1) A partial list of organizations interested in SEP, 2) Complaint No. 00-134
- cc w/ attachments: James Boarer, PE, Locus Technologies  
299 Fairchild Drive  
Mountain View, CA 94043

Farhad Azimzadeh, RWQCB

Santa Clara County, WDID: 2438162001, Order No. 99-051-18NOV2

**California Environmental Protection Agency**



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## MMP\_SEP\_list

ID	Watershed	Group	Contact Person	Phone
1	North Bay	North Bay Riparian Station	Andy Peri	415-332-1941
2	County streams	Silicon Valley Toxics Coalition	Michael Stanley-Jones	msjones@svtc.org
3	Triangle Marsh, Corte Madera	Marin Audubon	Barbara Salzman	415-924-6057
4	Petaluma River	Marin Audubon	Barbara Salzman	415-924-6057
5	various	SLUG - San Francisco League for Urban Gardeners	Mohammed Nuru	415-285-7584
6	Hayward Shoreline	Hayward Shoreline Interpretive Center	Adrienne Morrison	510-670-7270
7	Hayward Shoreline	East Bay Regional Parks	Mark Taylor	510-783-1066
8	Temescal Creek	Friends of Temescal Creek	Bruce Douglas	(510) 655-0341
9	Novato Creek	Marin County DPW	Liz Lewis	(415) 499-6528
10	Novato Creek	City of Novato	Sandy Stohler	(415) 899-1405
11	Wildcat Creek	Waterways Restoration Institute	Ann Riley	(510) 848-2211
12	Bay Area	Adopt-a-Watershed	Beth Huning	(415) 541-9657
13	San Pablo Bay	San Pablo Bay National Wildlife Refuge	Bryan Winton	(707) 562-3001
14	San Pablo Bay	San Pablo Bay National Wildlife Refuge	Bryan Winton	(707) 562-3000
15	Ocean Beach	Surfrider Foundation	Mike Paquet	(510) 654-5520
16	Upper San Pablo Creek	Friends of Orinda Creeks	Cinda Mackinnon	(925) 253-9690
17	Region-wide	SFEI	Rainer Hoenicke	(510) 231-9539
18	1. Don Edwards Wildlife Refuge; 2. Bair Island, San Mateo; 3. San Pablo Bay Refuge (Solano); 4. Antioch Dunes (Contra Costa); 5. Marin Islands (Marin)	SF Bay Wildlife Society	Cecily Harris	(510) 792-4275
19	Sonoma Valley	Sonoma Ecology Center	Caitlin Cornwall	(707) 996-9744
20	Presidio Creek	The Urban Watershed Project	Arlene Gemmil	(415) 759-1925
21	various	Contra Costa County Earth Day Festival	Sheilah Fish	(925) 736-5983
22	Schoolhouse Creek	Friends of 5 Creeks	Susan Schwartz	(510) 848-9358
23	Codornices Creek	Friends of 5 Creeks	Susan Schwartz	(510) 848-9358
24	Cerrito Creek	Friends of 5 Creeks	Susan Schwartz	(510) 848-9358
25	Region-wide	SFEP/ABAG	Jill Marshall	(510) 622-2388
26	Pinole Creek	Urban Creeks Council	Josh Bradt	(510) 540-6669
27	Baxter Creek	Urban Creeks Council	Lisa Vianni	(510) 540-6669
28	Walnut Creek	Friends of the Creeks	Pam Romo	(510) 939-8979
29	Mill Valley	Mill Valley StreamKeepers	Nancy Dempster	(415) 388-5728
30	Lake Merritt	Lake Merritt Institute	Dick Bailey	(510) 238-2290
31	East/West Oakland	Science in the 'Hood	Rich Bolecek	(510) 535-5657
32	Napa River	Friends of the Napa River	Chris Malan	(707) 254-8520
33	Bay Area	Aquatic Outreach Institue	Kathy Kramer	(510) 231-5655